MT LEGISLATIVE HISTORY

Chapter 141 1983

Bill H 417 S_____ Original bill & hist. ✓C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s)	C	Hearing Date(s)	C
2/2	✓C	3/3	✓C
	C		C
	C		C
Date Out 2/2	✓C	3/3	✓C

Did this bill originate in an interim committee? ___Yes ✓No

Committee _____ Report _____

HOUSE BILL NO. 417

INTRODUCED BY METCALF, HAZELBAKER

BY REQUEST OF THE BOARD OF PHARMACISTS

IN THE HOUSE

January 20, 1983	Introduced and referred to Committee on Judiciary.
February 2, 1983	Committee recommend bill do pass as amended. Report adopted.
February 3, 1983	Bill printed and placed on members' desks.
February 4, 1983	Second reading, do pass.
February 5, 1983	Considered correctly engrossed.
February 7, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 8, 1983	Introduced and referred to Committee on Judiciary.
March 3, 1983	Committee recommend bill be concurred in. Report adopted.
March 5, 1983	Second reading, concurred in.
March 8, 1983	Third reading, concurred in. Ayes, 48; Noes, 0.

IN THE HOUSE

March 8, 1983	Returned to House.
March 9, 1983	Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 417

INTRODUCED BY Metcalf Gallik

BY REQUEST OF THE BOARD OF PHARMACISTS

A BILL FOR AN ACT ENTITLED: "AN ACT UPDATING THE LIST OF CONTROLLED SUBSTANCES CONTAINED IN STATE LAW TO CONFORM WITH CONTROLLED SUBSTANCES LISTED IN THE CODE OF FEDERAL REGULATION, 1308.11-15; AMENDING SECTIONS 50-32-222, 50-32-224, 50-32-226, 50-32-229, AND 50-32-232, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-32-222, MCA, is amended to read:

"50-32-222. Specific dangerous drugs included in Schedule I. ~~The dangerous drugs listed in this section are included in Schedule I.~~ Schedule I consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

(1) Opiates. Unless specifically excepted or listed in another schedule, any of the following opiates, including ~~their~~ its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, ~~unless specifically excepted~~, whenever the existence of ~~these~~ such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(a) acetylmethadol;

(b) allylprodine;

(c) alphacetylmethadol;

(d) alphameprodine;

(e) alphamethadol;

(f) alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(g) benzethidine;

(h) betacetylmethadol;

(i) betameprodine;

(j) betamethadol;

(k) betaprodine;

(l) clonitazene;

(m) dextromoramide, ~~dextrorphen~~;

(n) diampromide;

(o) diethylthiambutene;

(p) difenoxin;

(q) dimenoxadol;

(r) dimepheptanol;

(s) dimethylthiambutene;

(t) dioxaphetyl butyrate;

(u) dipipanone;

(v) ethylmethylthiambutene;

(w) etonitazene;

 INTRODUCED BILL

HB 417

(x) etoxeridine;

(y) furethidine;

(z) hydroxypethidine;

(aa) ketobemidone;

(bb) levomoramide;

(cc) levophenacylmorphan;

(dd) morpheridine;

(ee) noracymethadol;

(ff) norlevorphanol;

(gg) normethadone;

(hh) norpipanone;

(ii) phenadoxone;

(jj) phenampromide;

(kk) phenomorphan;

(ll) phenoperidine;

(mm) piritramide;

(nn) proheptazine;

(oo) properidine;

(pp) propiram;

(qq) racemoramide; and

(rr) sufentanil;

(ss) tilidine; and

(tt) trimeperidine.

(2) Opium derivatives. Unless specifically excepted or listed in another schedule, any of the following opium

derivatives, ~~their~~ its salts, isomers, and salts of isomers ~~unless specifically excepted~~ whenever the existence of ~~these~~ such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) acetorphine;

(b) acetyldihydrocodeine;

(c) benzylmorphine;

(d) codeine methylbromide;

(e) codeine-n-oxide;

(f) cyprenorphine;

(g) desomorphine;

(h) dihydromorphine;

(i) drotebanol;

(j) etorphine;

(k) heroin;

(l) hydromorphinol;

(m) methyldesorphine;

(n) methyldihydromorphine;

(o) morphine methylbromide;

(p) morphine methylsulfonate;

(q) morphine-n-oxide;

(r) myrophine;

(s) nicocodeine;

(t) nicomorphine;

(u) normorphine;

(v) ~~phoclodine,~~ pholcodine; and

(w) thebacon~~,~~.

(3) Hallucinogenic substances. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation ~~which~~ that contains any quantity of the following hallucinogenic ~~drugs~~ substances, ~~their~~ or any of its salts, isomers, and salts of isomers, ~~unless specifically excepted,~~ whenever the existence of ~~these~~ such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) 3,4-methylenedioxy amphetamine;

(b) 5-methoxy-3,4-methylenedioxy amphetamine;

(c) 3,4,5-trimethoxy amphetamine;

(d) bufotenine;

(e) diethyltryptamine;

(f) dimethyltryptamine;

(g) ~~4-methyl-------1-2,-------5-dimethoxyamphetamine,~~ 4-methyl-2,5-dimethoxy-amphetamine;

(h) ibogaine;

(i) lysergic acid diethylamide;

(j) marihuana;

(k) mescaline;

(l) peyote;

(m) n-ethyl-3-piperidyl benzilate;

(n) n-methyl-3-piperidyl benzilate;

(o) psilocybin;

(p) psilocyn;

(q) tetrahydrocannabinols; and

(r) 2,5-dimethoxyamphetamine;

(s) 4-bromo-2,5-dimethoxy-amphetamine;

(t) 4-methoxyamphetamine;

(u) ethylamine analog of phencyclidine;

(v) pyrrolidine analog of phencyclidine; and

(w) thiophene analog of phencyclidine.

(4) Depressants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) mecloqualone.

(5) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(a) fenethylline; and

(b) n-ethylamphetamine.

(6) For purposes of subsection (3) only, the term "isomer" includes the optical, position, and geometric isomers.

(7) If prescription or administration is authorized by the Federal Food, Drug and Cosmetic Act, then any material, compound, mixture, or preparation containing tetrahydrocannabinols listed in subsection (3) shall automatically be rescheduled from Schedule I to Schedule II."

Section 2. Section 50-32-224, MCA, is amended to read:

"50-32-224. Specific dangerous drugs included in Schedule II. ~~The dangerous drugs listed in this section are included in Schedule II~~ Schedule II consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

(1) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or listed in another schedule, any of the following ~~drugs, except those narcotic drugs listed in other schedules,~~ substances, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate and any salt, compound, derivative, or preparation of opium or opiate~~, excluding~~

apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone and their respective salts, but including the following:

(i) raw opium;

(ii) opium extracts;

(iii) opium fluid extracts;

(iv) powdered opium;

(v) granulated opium;

(vi) tincture of opium;

(vii) codeine;

(viii) ethylmorphine;

(ix) etorphine hydrochloride;

(x) hydrocodone;

(xi) hydromorphone;

(xii) metopon;

(xiii) morphine;

(xiv) oxycodone;

(xv) oxymorphone; and

(xvi) thebaine;

(b) any salt, compound, ~~isomer~~, derivative, or preparation thereof ~~which~~ that is chemically equivalent or identical with any of the ~~drugs~~ substances referred to in subsection (1)(a) of this section, ~~but not including~~ except that these substances do not include the isoquinoline alkaloids of opium;

(c) opium poppy and poppy straw;

(d) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof ~~which~~ that is chemically equivalent or identical with any of these ~~drugs~~ substances, ~~but not including~~ except that these substances do not include decocainized coca leaves or ~~extractions~~ extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(e) concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy.

(2) Opiates. Unless specifically excepted or listed in another schedule, any of the following opiates, including ~~their~~ its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of ~~these~~ such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a) alphaprodine;

(b) anileridine;

(c) bezitramide;

(d) dihydrocodeine;

(e) diphenoxylate;

(f) fentanyl;

(g) isomethadone;

(h) levomethorphan;

(i) levorphanol;

(j) metazocine;

(k) methadone;

(l) methadone-intermediate~~;~~,

~~(m)~~ 4-cyano-2-dimethylamino-4~~;~~,

~~(n)~~ 4-diphenyl butane;

~~(o)~~(m) moramide-intermediate~~;~~,

~~(p)~~ 2-methyl-3-morpholino-1~~;~~,

~~(q)~~ 1-diphenylpropane-carboxylic acid;

~~(r)~~(n) pethidine (meperidine);

~~(s)~~(o) pethidine-intermediate-A~~;~~,

~~(t)~~ 4-cyano-1-methyl-4-phenylpiperidine;

~~(u)~~(p) pethidine-intermediate-B~~;~~,

~~(v)~~ ethyl-4-phenylpiperidine-4-carboxylate;

~~(w)~~(q) pethidine-intermediate-C~~;~~,

~~(x)~~ 1-methyl-4-phenylpiperidine-4-carboxylic acid;

~~(y)~~(r) phenazocine;

~~(z)~~(s) piminodine;

~~(aa)~~(t) racemethorphan; ~~and~~

~~(bb)~~(u) racemorphan; and

(v) bulk dextropropoxyphene (nondosage forms).

(3) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or

preparation ~~which~~ that contains any quantity of the following ~~drugs~~ substances having a ~~potential--for--abuse associated--with--a~~ stimulant effect on the central nervous system:

(a) amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) phenmetrazine and its salts;

(c) ~~any--drug---which---contains---any---quantity---of~~ methamphetamine, ~~including~~ its salts, isomers, and salts of its isomers; and

(d) methylphenidate.

(4) Depressants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) amobarbital;

(b) methaqualone;

(c) pentobarbital;

(d) phencyclidine; and

(e) secobarbital.

(5) Immediate precursors. Unless specifically excepted

or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:

(a) immediate precursor to amphetamine and methamphetamine:

(i) phenylacetone;

(b) immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine; and

(ii) 1-piperidinocyclohexanecarbonitrile (PCC)."

Section 3. Section 50-32-226, MCA, is amended to read:

"50-32-226. Specific dangerous drugs included in Schedule III. ~~The dangerous drugs listed in this section are included in Schedule III.~~ Schedule III consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

(1) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) benzphetamine;

(b) chlorphentermine;

(c) clortermine; and

(d) phendimetrazine.

~~(1)~~(2) ~~unless~~ Depressants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation ~~which~~ that contains any quantity of the following ~~drugs~~ substances having ~~a potential for abuse associated with~~ a depressant effect on the central nervous system:

(a) any ~~drug which~~ substance that contains any quantity of a derivative of barbituric acid or any salt ~~of a derivative of barbituric acid, except those drugs which are specifically listed in other schedules~~ thereof;

(b) chlorhexadol;

(c) glutethimide;

(d) lysergic acid;

(e) lysergic acid amide;

(f) methyprylon;

~~(g) phencyclidine;~~

~~(h)~~(g) sulfondiethylmethane;

~~(i)~~(h) sulfonethylmethane; ~~and~~

~~(j)~~(i) sulfonmethane;

(j) any compound, mixture, or preparation containing amobarbital, secobarbital, or pentobarbital or any salt of any of these drugs and one or more other active medicinal ingredients that are not listed in any schedule; and

(k) any suppository dosage form containing amobarbital, secobarbital, or pentobarbital or any salt of any of these drugs approved by the federal food and drug administration for marketing only as a suppository.

~~(2)~~(3) ~~nalorphine;~~ Nalorphine.

~~(3)~~(4) Narcotic drugs. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation containing ~~limited quantities of~~ any of the following narcotic drugs or ~~any~~ its salts ~~thereof~~ calculated as the free anhydrous base or alkaloid in the following limited quantities:

(a) not more than 1.8 grams of codeine ~~or any of its salts~~ per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) not more than 1.8 grams of codeine ~~or any of its salts~~ per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) not more than 300 milligrams of dihydrocodeinone ~~or any of its salts~~ per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) not more than 300 milligrams of dihydrocodeinone ~~or any of its salts~~ per 100 milliliters or not more than 15

milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(e) not more than 1.8 grams of dihydrocodeine ~~or any of its salts~~ per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) not more than 300 milligrams of ethylmorphine ~~or any of its salts~~ per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(g) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; or

(h) not more than 50 milligrams of morphine ~~or any of its salts~~ per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts."

Section 4. Section 50-32-229, MCA, is amended to read:

"50-32-229. Specific dangerous drugs included in Schedule IV. ~~The following dangerous drugs are included in Schedule IV:~~ Schedule IV consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

(1) Narcotic drugs. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs or its salts calculated as the free anhydrous base or alkaloid in the following limited quantities:

(a) not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

(b) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(2) Depressants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation ~~which~~ that contains any quantity of the following ~~drugs having a potential for abuse associated with a depressant effect on the central nervous system~~ substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) alprazolam;

(b) barbital;

(c) chloral betaine;

(d) chloral hydrate;

(e) chlordiazepoxide;

(f) clonazepam;

(g) clorazepate;

(h) diazepam;

(i) ethchlorvynol~~,~~;

(j) ethinamate~~,~~;

(k) flurazepam;

(l) halazepam;

(m) lorazepam;

(n) mebutamate;

(o) methohexital~~,~~;

(p) meprobamate~~,~~;

(q) methylphenobarbital~~,~~ (mephobarbital);

(r) oxazepam;

(s) paraldehyde~~,~~;

(t) petrichloral~~,~~; and

(u) phenobarbital~~,~~;

(v) prazepam; and

(w) temazepam.

(3) Fenfluramine. Any material, compound, mixture, or preparation that contains any quantity of the following substance, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible:

(a) fenfluramine.

(4) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or

preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(a) diethylpropion;

(b) mazindol;

(c) pemoline, including organometallic complexes and chelates thereof;

(d) phentermine;

(e) pipradrol; and

(f) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(5) Other substances. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including its salts:

(a) pentazocine."

Section 5. Section 50-32-232, MCA, is amended to read:

"50-32-232. Specific dangerous drugs included in Schedule V. ~~The following dangerous drugs are included in Schedule V:~~ Schedule V consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

(1) Narcotic drugs containing nonnarcotic active medicinal ingredients. ~~any~~ Any compound, mixture, or preparation containing ~~limited quantities of~~ any of the following narcotic drugs ~~which also contains~~ or its salts

calculated as the free anhydrous base or alkaloid in limited quantities as set forth in subsections (1)(a) through (1)(f), which include one or more nonnarcotic, active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic ~~drug~~ drugs alone:

~~(1)~~(a) not more than 200 milligrams of codeine ~~or--any of its salts~~ per 100 milliliters or per 100 grams;

(b) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(c) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

~~(2)~~(d) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.;

(e) not more than 100 milligrams of opium per 100 milliliters or per 100 grams; and

(f) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Loperamide."

-End-

STATUS SHEET

JUDICIARY COMMITTEE

48 Legislature

No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
9	Providing for motor vehicle liability coverage of persons w/o regard to the motor vehicles owned or operated by the insured.	1/19/83	Rep. Menahan	2/2/83	Table	2/9/83
8	Providing that voluntary intox. or drugged condition is not a defense to any criminal offense & to clarify the test for responsibility for conduct.	1/19/83	Rep. J. Jensen	1/31/83	Tabled	2/8/83
3	Revising the sentences for possession of dangerous drugs; providing for concurrent crt. jurisdiction over offenses involving dangerous drugs.	1/19/83	Rep. Hand	1/31/83	Tabled - 1/31/83	
5	Allowing a municipal court judge and his law partners to practice law before any crt. in the state except the crt. of that judge.	1/20/83	Rep. Daily	2/2/83	Do Pass	2/2/83
17	Updating the list of controlled substances to conform with controlled substances listed in code of federal regulation.	1/20/83	Rep. Metcalf	2/2/83	Do Pass as Amended	2/2/83
0	To increase the penalties for violation of laws relating to motor vehicle registration, operation and accident reports.	1/21/83	Rep. Hannah	2/3/83	Do Pass as Amended	2/3/83

Minutes of the Judiciary Committee
February 2, 1983

The meeting of the House Judiciary Committee was called to order by Chariman Dave Brown. All members were present except REPRESENTATIVE FARRIS who was excused. Brenda Desmond, Legislative Council, was present.

HOUSE BILL 417

This bill updates the list of controlled substances contained in the state law to conform with the list of controlled substances under federal law, explained the sponsor, REPRESENTATIVE METCALF. The Board of Pharmacists has requested the bill. The federal list is published yearly, but it is felt the law should also be updated.

WARREN AMOLE, Board of Pharmacists supported the bill with EXHIBIT A. AMOLE recommended the committee adopt the amendments as proposed in his testimony to change the clerical typing errors of two of the drugs.

There were no further proponents.

There were no opponents.

REPRESENTATIVE METCALF, in closing, recommended the amendments be adopted.

REPRESENTATIVE ADDY asked how the list is developed. AMOLE replied it is taken from the Code of Federal Regulations. The Federal Food and Drug Administration sets up the schedule on the basis of the potential for abuse of the drug.

The hearing on the bill closed.

HOUSE BILL 357

REPRESENTATIVE DONALDSON, sponsor, stated House Bill 357 would revise the laws relating to immunization and indemnification of governmental employees. There is an ever increasing number of civil rights actions brought under federal law against employees of the state and local governments.

REPRESENTATIVE DONALDSON read EXHIBIT B, a letter from Mike Young Administrator of the Insurance and Legal Division of the Department of Administration.

SENATOR JOE MAZUREK, Senate District 16, was in favor of the proposed legislation. SENATOR MAZUREK stated he worked on the bill with the sponsor and the Department of Administration. He felt there are some mechanical problems with the bill; however, with the amendments that will be proposed, particularly those to be proposed by the City of Missoula and the Department of Administrtion, some of these problems will be worked out.

A roll call vote was taken on the motion DO NOT PASS. Those voting yes were: D. BROWN, EUDAILY, KENNERLY, RAMIREZ, SCHYE, SEIFERT, SPAETH, and VELEBER. Those voting no were: ADDY, BERGENE, J. BROWN, CURTISS, DAILY, DARKO, HANNAH, IVERSON, JENSEN, and KEYSER. The motion failed 10 to 8. The vote was then reversed to a motion of DO PASS. The motion carried with a vote of 10 to 8. Those voting no above voted yes on this motion; those voting yes on the motion above voted no on this motion. House Bill 362 left the committee on a DO PASS motion.

HOUSE BILL 415

REPRESENTATIVE SEIFERT moved DO PASS, seconded by REPRESENTATIVE J. BROWN.

REPRESENTATIVE HANNAH asked if judges would go from district to district if the workload was too high. It was replied WALLACE CLARK is the only municipal judge in the state.

REPRESENTATIVE JENSEN stated that municipal courts are not set up in small rural areas. He felt that a judge should focus on being just a judge and not an attorney.

The motion of DO PASS carried with REPRESENTATIVE ADDY and JENSEN voting against the motion.

HOUSE BILL 417

REPRESENTATIVE J. BROWN moved DO PASS, seconded by REPRESENTATIVE EUDAILY.

REPRESENTATIVE CURTISS moved the committee change the mispelled words of "clonazepan" to "clonazepam" and "flurazepan" to "flurazepam". All were in favor of the motion.

REPRESENTATIVE J. BROWN moved DO PASS AS AMENDED, seconded by REPRESENTATIVE EUDAILY.

All were in favor of the motion. House Bill 417 left the committee on a DO PASS AS AMENDED recommendation.

OTHER MATTERS

BRENDA DESMOND presented the committee with EXHIBIT J, a proposed draft of a bill that would define the term "general election" for the purpose of submission to the people of laws or constitutional amendments by the legislature.

The draft was requested by the Committee Chairman because of uncertainty concerning the effect of 1979 changes in the election law on the law governing the submission of ballot issues by the

STANDING COMMITTEE REPORT

February 2, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 417

First reading copy (White color)

A BILL FOR AN ACT ENTITLED: "AN ACT UPDATING THE LIST OF CONTROLLED SUBSTANCES CONTAINED IN STATE LAW TO CONFORM WITH CONTROLLED SUBSTANCES LISTED IN THE CODE OF FEDERAL REGULATION, 1308.11-15; AMENDING SECTIONS 50-32-222, 50-32-224, 50-32-226, 50-32-229, AND 50-32-232, MCA."

Respectfully report as follows: That HOUSE Bill No. 417

BE AMENDED AS FOLLOWS:

1. Page 16, line 24.
Strike: "clonazepan"
Insert: "clonazepam"

2. Page 17, line 4.
Strike: "flurazepan"
Insert: "flurazepam"

AND AS AMENDED

DO PASS

DAVE BROWN, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

BOARD OF PHARMACISTS

HB 417
Exhibit A
2/2/83

1424 9TH AVENUE
HELENA, MONTANA 59620
(406)449-3737

TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

WARREN AMOLE, EXECUTIVE SECRETARY 510 1ST AVE. NO., SUITE 100 GREAT FALLS, MT 59401 (406)761-5131

Date: February 2, 1983

To: Representative Dave Brown, Chairman, Judiciary Committee, and Members

From: Warren R. Amole, jr., R.Ph., Executive Secretary

Re: House Bill 417

This bill is an act updating the list of controlled substances. There are two main reasons why the Board of Pharmacists is requesting the passage of this bill.

Number one is to have the drugs listed in the various schedules to conform with the listing in the Code of Federal Regulations. In the present statutues (referred to on page 1 of the Bill) most drugs are listed consecutively in paragraphs. This makes it difficult to locate a specific drug. You will notice that the format in this Bill names the drugs in list form. This will be helpful to anyone who has need to use the list. It will also make it easier to add, delete, or change drugs in the future.

Number two is that although the Board is given the authority to schedule, reschedule or delete a "controlled substance" (50-32-203 MCA), it has been recommended by the Attorney General's office and others that the Board support a bill in each session of the Legislature that reflects any revisions that may have occurred in the two year interval between legislative sessions. This Bill will help to eliminate any discrepancy between the statutory schedules of controlled substances and administrative rules.

In addition, whenever a drug possession case goes to court that involves a drug that has been scheduled by the Board but not by the Legislature, the

defendant uses the defense that the Board has delegated its authority to schedule drugs to the Federal Government. So far the judges have not allowed this defense ploy but this Bill would eliminate this possibility.

I have included an amendment to this Bill that corrects two misspelled words.

The Board of Pharmacists recommends the passage of this bill.

AMENDMENT TO HOUSE BILL 417

Page 16, line 24, change "~~(f)-clonazepam~~" to "(f) clonazepam"

Page 17, line 4, change "~~(k)-flurazepam~~" to "(k) flurazepam"

The Committee questioned if the officers now have the power to detain a person. They were advised that the officers do not and that it is now necessary for them to "play a game" of continuing to process a persons entry into the country in order to detain the person at the border until an officer with the power to arrest can arrive. It was noted that this is a severe problem in those places where the law enforcement must come from hundreds of miles away.

Senator Galt questioned if the officers now have the power to arrest for violations of federal law and was advised that they do.

Senator Berg questioned if the officers themselves are in support of this bill and he was advised that they are. It was noted that Sheriff O'Reilly was present and favored the bill.

There being no further questions, the hearing was closed.

CONSIDERATION OF HOUSE BILL 417: Representative Metcalf advised that he was sponsoring this bill at the request of the Board of Pharmacists. It is their feeling that the list of controlled substances contained in state law should be updated to conform with controlled substances listed in the Code of Federal Regulation.

PROPONENTS: Warren Amole, representing the State Board of Pharmacists, testified in favor of the bill and submitted his written testimony (see attached Exhibit "C"). He especially encouarged the adoption of HB417 as many drug possession cases use the defense that the Board has delegated its authority to schedule drugs to the federal government.

There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Senator Halligan questioned why the list of controlled substances was not automatically updated. He was advised that the Administrative Code Committee stated this could not be done and the current lists have not been updated since 1973.

Senator Mazurek questioned if any convictions had been overturned since we do not have the updated list in our statutes. He was advised that none have been, but this defense keeps arising.

Counsel advised the Committee that the Supreme Court has found that the legislature cannot delegate authority to adopt federal regulation as they may be amended from time to time.

There being no further discussion, the hearing was closed.

Senator Berg questioned if the passage of this bill would prevent the mail-order companies from advertising. Mr. Sloulin stated that the states who have laws against look-alike drugs have been able to stops the ads. It was also noted that page 5 of the bill lists a penalty for advertising.

Sheriff O'Reilly further advised the Committee that an additional danger with these drugs is that the black beauties are sometimes laced with strychnine.

Senator Crippen asked Representative Stobie why the House had deleted the language that the drugs could be possessed for research purposes. Representative Stobie believed that this was covered in another section of the statutes. Senator Crippen also inquired why the word "possession" had been stricken. He was advised that this would make the law too strict for middle school children and that the major intent of the bill is to deter possession for sale purposes and advertising.

Senator Mazurek felt the fine should be raised to $50,000 so as to be consistent with other drug law penalties.

There being no further discussion, the hearing was closed.

FURTHER CONSIDERATION OF HOUSE BILL 589: Senator Daniels advised the Committee that he had misunderstood the intent of HB589 and would therefore like to have it returned to the Committee for reconsideration. The Committee acknowledged this request.

ACTION ON HOUSE BILL 417: The Committee felt they were ready to consider executive action on this bill. Senator Berg moved HB417 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 433: The Commitee could see the problems the smaller jurisdictions have in selecting jurors when there are so few banks in the community. Senator Brown moved HB433 BE CONCURRED IN. This motion carried with Senator Daniels voting in opposition.

ACTION ON HOUSE BILL 130: Counsel advised the Committee that there is a need to include a subsection (3) in the bill which would define person as including a corporation in order to apply the penalties to corporations under 45-2-311. Senator Galt moved to adopt the amendment as above proposed. This motion carried unanimously. Senator Mazurek felt that in order to be consistent with other drug penalties, the fine should be increased from $25,000 to $50,000. He moved that this increase should be inserted on page 3, line 21 and page 4, line 19. Senator Mazurek also thought the stricken portion of the bill relating to a presumption in favor of deferred sentences for minors should be reinserted. These motions carried unanimously. Senator Mazurek then moved that HB130 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

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MR. PRESIDENT

We, your committee on Judiciary

having had under consideration House Bill No. 417

Metcalf (Hazelbaker)

Respectfully report as follows: That House Bill No. 417

third reading bill,

BE CONCURRED IN

~~DO PASS~~

STATE PUB. CO.
Helena, Mont.

JEAN A. TURNAGE, Chairman.